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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,974	02/05/2004	Henry Orenstein	HO 1	5203

7590 06/29/2005

JAMES J. MAUNE
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PLAINVIEW, NY 11803

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/772,974	Applicant(s) ORENSTEIN, HENRY	
	Examiner Benjamin H. Layno	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephenson.

The patent to Stephenson discloses a method of conducting a tournament. The tournament may include poker, col. 3, line 37. The tournament is played over the Internet wherein a selected number of players participate, col. 4, lines 59-61. The players play a round of poker 20 that includes a series of games, col. 3, lines 62-63. The players attempt to obtain a sufficient number of points during the course of play. Points are assigned to players during the course of the tournament, see example col. 4, line 54 to col. 5, line 53. Players with the highest total number of points, (e.g. Player C 400 points, Player D 525 points), are selected as winners, while the players with the lowest total number of points (e.g. Player A 75 points) are eliminated. Thus, points are assigned to players according to the order in which the players are eliminated. One winner may be selected as the player with the highest total number of points (e.g. Player D 525 points). An award is distributed to the players that are not eliminated 50, col. 4, lines 47-50.

It is well known in the casino poker tournament art to require a player to place a stake or fee to participate in a casino poker tournament. In view of such teaching, it would have been obvious to play Stephenson's poker tournament in a casino environment wherein players are required to place a stake or fee to participate in the poker tournament. The player with the highest total number of points (e.g. the last player not eliminated) would have been awarded prize money obtained from the fees collected. This modification would have made Stephenson's poker tournament more exciting to play.

In regard to claim 10, determining what type of point system to use (e.g. awarding the lowest number of points to the player that is not eliminated, or awarding the highest number of points to the player that is not eliminated) in Stephenson's poker tournament would have simply been a casino management decision, which is always obvious in the art.

Concerning claim 12, it is well known in the casino poker game art, that when a player is eliminated from or voluntarily leaves a casino poker game leaving a seat empty at the poker table, a different player may be selected to replace the eliminated player, and occupy that seat. In view of such teaching, it would have been obvious to replace an eliminated player, in Stephenson's poker tournament, with a selected different player. This modification would have made Stephenson's poker tournament continuously open to new players, thereby increasing revenue.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephenson in view of Orenstein.

The patent to Orenstein discloses an apparatus for conducting a poker tournament comprising a poker table 10 having card receiving stations 12, and closed circuit television cameras 24 oriented to view the value of the hidden cards 18 of each player, thereby displaying to an audience the value of the hidden cards of each player.

In view of such teaching, it would have been obvious to conduct Stephenson's poker tournament on Orenstein's poker table. This modification would have allowed an audience to view the value of the cards of each player, thus making Stephenson's poker tournament more entertaining to an audience, and thus more popular.

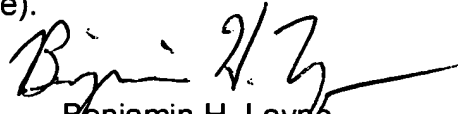
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Nakagawa discloses a poker tournament method wherein player are eliminated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl